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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Charles J. Winslow et al.  
Serial No.: 08/889,661  
Filed: July 8, 1997  
For: OPEN POSTERIOR LUMBAR  
FUSION CAGE INSERTION SET

Examiner: Julian W. Woo  
Group: Art Unit 3309  
Docket: 203-1782 CON (1791 CON)  
Dated: May 14, 1999

MAY 21 1999

Assistant Commissioner for Patents  
Washington, D.C. 20231

**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

Sir:

Applicants would like to comment on the Examiner's Statement of Reasons for Allowance provided in the Notice of Allowability mailed April 19, 1999 in connection with the above-identified application.

Applicants wish to clarify that their invention, as claimed, does not require both the impactor cap and the elongate member with openings in its outer wall for patentability as may be implied by the statement. Compare, e.g., allowed independent claims 12 and 15. Furthermore, with respect to the comments pertaining to the method, Applicants wish to clarify that the method of Applicants' invention does not require "an opening in its outer wall for introduction of surgical instrumentation" for a patentability. See, e.g.,

**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231 on May 14, 1999.

Dated: May 14, 1999

Joseph W. Schmidt

**RECEIVED**

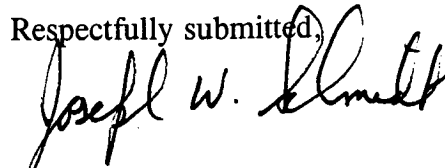
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Publishing Division

independent claim 2.

It is respectfully requested that the above-mentioned comments be entered as part of the file history of this application.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Joseph W. Schmidt". The signature is fluid and cursive, with the first name "Joseph" being the most prominent.

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JWS:mb